FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
Writ Petition No. 1135/2006
Subhash Anandrao Kayate
..vs..
The State of Maharashtra and others.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.	Court's or Judge's Orders

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CORAM: A. H. JOSHI & R. C. CHAVAN, JJ.
DATED : 2nd July, 2007

1. Heard learned Advocate Mr. V. A. Kothale, for the petitioner, learned A.G.P. Mrs. B. H. Dangre, for respondent No. 1 and learned Advocate Mr. M. A. Vaishnav, for respondent Nos. 3 and 4.

2. The petitioner was employed on 11.09.1993 in the services of respondent No. 4, which was then an unaided school. This school started receiving grants in the year 1997 and the petitioner's services were terminated. According to the petitioner, he was not paid salary for the period 1993 to 1997 and he was spending time for litigating against the wrongful termination.

3. In the present writ petition, which is filed on 01.01.2006, the petitioner prays for payment of arrears of salary, which pertains

to the period 1993-1994 i.e. more than 10 years in the past. Moreover, the question as to whether the salary is due or not, is also a disputed question.

4. The learned Advocate Mr. Kothale placed reliance on reported judgment of the Hon'ble Supreme Court in **Kapila Hingorani ...vs... State of Bihar; AIR 2005 SUPREME COURT 980.** We find that the reported judgment does not render any support or guidance to the petitioner, in view that in the said case the Company, against whom wages were recoverable, could not have been proceeded in the Court, in view of the admitted fact of pendency of liquidation proceeding. Moreover, the claim of salary was an admitted fact. In the present case, however, the employer claims to have paid the amount.

5. The petitioner, who claims that he was not paid salary from 1993 to 1997 and was out of employment and already before the Court or Authorities for claiming relief of reinstatement, nothing has come on record to show as to what had precluded him from agitating the question as to the payment of salary, punctually by appropriate recourse including one like present petition.

6. In these circumstances, this Court would not like to go in the disputed question of facts, particularly when it amounts to claiming amount, which would not be capable of being claimed even by a suit, due to bar under Law of Limitation.

7. We, therefore, do not propose to interfere in the petition. The petition is dismissed.

JUDGE **JUDGE**

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